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24 IN THE UNITED STATES DISTRICT COURT
25 FOR THE NORTHERN DISTRICT OF CALIFORNIA
26 OAKLAND DIVISION

27 In re:

28) Case No. C-07-4826-CW

29 DEAN GORDON POTTER,

30)

31 Debtor.

32)

33 UNICO SERVICES INC.,

34) Case No. C-08-00800-CW

35 Plaintiff,

36)

37 vs

38) **STIPULATION AND REQUEST FOR
39 ORDER CONSOLIDATING CASES**

40 UNITED STATES OF AMERICA,

41)

42 Defendant.

43)

1 The United States of America, on behalf of its agency, the Internal Revenue Service (the United
2 States or the Service), by and through its undersigned attorneys, the Plaintiff, Unico Services Inc.
3 (Unico) and the debtor, Dean Gordon Potter (debtor), by and through their undersigned attorneys hereby
4 stipulate to the following:

RECITALS

6 (1). The debtor filed his chapter 11 petition with the United States Bankruptcy Court on
7 December 12, 2006.

8 (2). On April 9, 2007, debtor filed an adversary proceeding seeking a tax refund. *Potter v.*
9 *United States*, Adv. No. 07-04066-LT (Bankr. N.D. Cal.) The adversary proceeding seeks a refund of
10 individual income tax in the amount of \$358,054 for the taxable year ending December 31, 1998. The
11 adversary proceeding relates to an Offshore Employee Leasing Arrangement which involved Potter and
12 Unico Services, Inc. (“OEL Arrangement”).

17 (4). On September 7, 2007, the United States filed a Motion to Withdraw the Reference and to
18 Transfer Venue to The Eastern District of California with the United States Bankruptcy Court for the
19 Northern District of California.

20 (5). Pursuant to Bankruptcy Local Rule 5011-2(a) the United States Motion was transmitted to
21 the District Court for decision. The District Court granted the withdrawal of the reference and denied
22 the transfer of venue, without prejudice.

23 (6). On December 21, 2007, the United States filed a Motion to Transfer Venue with the United
24 States District Court for the Eastern District of California. The Motion sought to transfer venue as to the
25 Unico refund case to the Northern District. The District Court for the Eastern District of California, the
26 Honorable Morrison C. England, Jr. Presiding, granted the United States Motion to Transfer Venue
27 holding that “the interest of justice will be better served if this case and the Potter Federal Tax Disputes
are resolved in one forum.”

1 (7). On February 6, 2008, the United States filed a Notice of Related Case pursuant to Civil
2 Local Rule 3-13 identifying the transferred Unico refund suit as a related case. On February 12, 2008,
3 this Court entered its Order entitled "Related Case Order" finding that the debtor's case is related to the
4 Unico refund suit.

5 **STIPULATION**

6 (8). The parties stipulate that for purposes of Rule 42(a) of the Federal Rules of Civil Procedure
7 there are common issues of law and fact present in both cases, such that consolidation of the two cases is
8 warranted for all purposes, including but not limited to discovery, pre-trial, trial, post-trial, and appeal.

9 (9). The parties request that the Court enter an Order consolidating these cases pursuant to Rule
10 42(a) of the Federal Rules of Civil Procedure. A proposed Order is submitted herewith.

11 Dated: February 20, 2008

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15 By: /s/ G. Patrick Jennings
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20 Dated: February 19, 2008

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